

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MELISSA DEVIN MAGNESS,**  
individually and on behalf of all  
others similarly situated,

Plaintiff,

**vs.**

**BANK OF AMERICA, N.A., WALLED  
LAKE CREDIT BUREAU, LLC,  
URBAN SETTLEMENT SERVICES,  
LLC, D/B/A URBAN LENDING  
SOLUTIONS; DIALOGUE  
MARKETING, INC.; and DOES 1  
through 10, inclusive,**

Defendants.

**Civil Action No.**

**5:15-cv-02402-LDD**

**CLASS ACTION**

**MOTION OF DEFENDANT,  
DIALOGUE MARKETING, INC., TO  
JOIN IN THE MOTION FOR  
SUMMARY JUDGMENT OF CO-  
DEFENDANT, BANK OF AMERICA,  
N.A.**

NOW COMES Defendant, Dialogue Marketing, Inc. (hereinafter "DMI"), by and through its undersigned counsel, Marshall Dennehey Warner Coleman & Goggin, P.C. and hereby submits the following Motion to join in the Motion for Summary Judgment filed by Co-Defendant, Bank of America, N.A. (hereinafter "BANA"), stating as follows:

1. On March 19, 2013 Plaintiff, Melissa Devin Magness (hereinafter "Plaintiff") filed a Class Action Complaint against BANA, Walled Lake Credit Bureau, LLC, Urban Settlement Services, LLC, d/b/a Urban Lending Solutions ("Urban") and DMI in the United States District Court for the Eastern District of Pennsylvania, at docket number 5:15-cv-02402-LDD, alleging collective violations of the Telephone Consumer Protection Act of 1991 ("TCPA"), 47 U.S.C. §227, *et seq.*, against the defendants. See ECF 1.

2. On February 12, 2016, BANA filed a Motion for Summary Judgment against Plaintiff arguing, *inter alia*, that because calls placed to Plaintiff's cellular telephone number were made with express consent, and because once Plaintiff revoked consent to receiving calls placed to her cellular telephone number, the calls ceased, summary judgment is warranted. See ECF 19.

6. DMI's role in this litigation was serving as a call center for Urban, on behalf of BANA, and in that role it placed five calls <sup>1</sup> to Plaintiff's cellular telephone number prior to Plaintiff's revocation of express consent to call that number.

7. Because of DMI's role and conduct, BANA's arguments in its Motion for Summary Judgment are the same arguments that would be advanced by DMI.

8. Therefore, DMI seeks to join in the Motion for Summary Judgment of Co-Defendant, BANA, to preserve DMI's ability to appear and argue its position at oral argument.

9. Plaintiff does not oppose this Motion to Join.

---

<sup>1</sup> Four calls reached the phone number, one call did not (a Special Information Tone (i.e. bad circuit)).

**WHEREFORE**, Defendant, Dialogue Marketing, Inc., prays that the Court enter an Order granting its Motion to Join in the Motion for Summary Judgment filed by Co-Defendant, Bank of America, N.A.

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN, P.C.**

By: (s) Andrew M. Schwartz / ams121  
ANDREW M. SCHWARTZ  
2000 Market Street, Suite 2300  
Philadelphia, PA 19103  
(215) 575-2765 / (215) 575-0856 (f)  
Amschwartz@mdwcg.com  
Attorneys for Defendant  
Dialogue Marketing, Inc.

Dated: February 23, 2016